



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,174	03/10/2004	Joel C. Heil		4054

7590 12/13/2006  
Robert E. Massa  
1535 South Memorial  
Tulsa, OK 74112-7046

EXAMINER

KIM, CHRISTOPHER S

ART UNIT PAPER NUMBER

3752

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Gr

<b>Office Action Summary</b>	Application No. 10/797,174	Applicant(s) HEIL ET AL.	
	Examiner Christopher S. Kim	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The response filed September 21, 2006 is acknowledged.
2. The amendment to the claims must provide a listing of all claims and their status. See 37 CFR 1.121(c). Future amendments to the claims must provide a listing of canceled claims and their status, i.e. "Claims 1-17. Canceled." Otherwise, the amendment will be deemed not fully responsive.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Information Disclosure Statement***

4. The information disclosure statement filed March 10, 2004 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.
5. The information disclosure statement filed March 10, 2004 fails to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the

information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered.

### ***Drawings***

6. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "overflow valve" recited in claim 22; the "switch member" recited in claim 23 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

7. Claims 18-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 18 recites "sprinkler components" in line 14 which appears to be a double inclusion of the "multiplicity of sprinkler components" recited in line 5 and the "each sprinkler component" recited in line 11. Additionally, if the "sprinkler components are positioned on a roof" as recited in line 5, it is uncertain how the "sprinkler components" can also be mounted on the soffitt, as recited in lines 14-15.

Claim 19 recites "a false roof positioned upon said roof and sprinkler components are mounted upon said false roof." It is uncertain how the sprinkler components can be mounted on the roof, soffitt, and false roof.

***Claim Rejections - 35 USC § 103***

8. Claims 18, 23, 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Lingen (6,167,971) in view of McFadden (3,583,490).

Van Lingen discloses a fire protection system comprising:

a water holding tank 22 connected to a water supply (see figure 1);

a water passage line 24, 34;

a multiplicity of sprinkler components comprising a sprinkler head 36, 38 connected to a water line 34;

a water pump 39 including a switch (activation upon receipt of an activation signal, column 5, lines 19-21) connected to a source of electricity (generator, column 5, lines 19-25);

a soffitt member 20.

Van Lingen differs from what is being claimed in the gutter.

McFadden teaches a gutter 22, 28; a water return line 34; and filter component 44, 56, F.

It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the gutter, return line and filter component of McFadden to the device of Van Lingen to re-claim and conserve water.

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lingen (6,167,971) in view of McFadden (3,583,490) as applied to claim 18 above, and further in view of Wallace (6,523,616).

Van Lingen in view of McFadden differs from what is being claimed in the tank being underground. Wallace teaches an underground tank 60. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have positioned the tank of Van Lingen underground as taught by Wallace for protection from the environment and to improve aesthetic by removing from sight.

10. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lingen (6,167,971) in view of McFadden (3,583,490) as applied to claim 18 above, and further in view of Destefano (4,934,404).

Van Lingen in view of McFadden differs from what is being claimed in the tank having a means for inspecting. Destefano teaches a means 29 for inspecting tank 23. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the means for inspecting to the tank of Van Lingen as taught by Destefano to enable inspection.

11. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lingen (6,167,971) in view of McFadden (3,583,490) as applied to claim 18 above, and further in view of Banzato (3,179,181).

Van Lingen in view of McFadden differs from what is being claimed in the tank having an overflow valve. Banzato teaches an overflow vlave 20. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided an overflow valve to the tank of Van Lingen as taught by Banzato to prevent overfilling.

12. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lingen (6,167,971) in view of McFadden (3,583,490) as applied to claim 18 above, and further in view of Scott (5,732,511).

Van Lingen in view of McFadden differs from what is being claimed in the batteries. Scott teaches batteries 62. It would have been obvious to a person having

ordinary skill in the art at the time of the invention to have provided an assembly of batteries to the device of Van Lingen as taught by Scott backup power.

### ***Response to Arguments***

13. Applicant's arguments with respect to claims 18-25 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571)




Art Unit: 3752

272-4905. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher S. Kim  
Primary Examiner  
Art Unit 3752

CK